

REMARKS/ARGUMENTS

This case has been reviewed and analyzed in view of the Official Action dated 16 December 2004. Responsive to the rejections made by the Examiner in the outstanding Official Action, Claim 1 has been amended and Claim 3 has been canceled in order to more clearly clarify the inventive concept of the Applicant.

Prior to a discussion of the Examiner's objections and rejections made in the outstanding Official Action, it is believed that it may be beneficial to briefly review the subject Patent Application system in light of the inventive concept of the Applicant. The subject Patent Application is directed to an ice cream scoop and, as shown in Figs. 1 and 2 of the subject Patent Application Drawings, the ice cream scoop includes a first scoop member 1 and a second scoop member 2. The first scoop member 1 includes a handle 11 and a ring 12 formed on one end of the handle 11. The ring 12 includes a stepped portion 121 formed in an inner periphery thereof. The second scoop member 2 includes a handle 21 and a bowl 22 formed on an end of the handle 21. As best shown in Fig. 3 of the Patent Application Drawings, the stepped portion of the ring engages the inner surface of the bowl when the ice cream scoop is being utilized for the scooping of ice cream. The stepped portion forms a raised rim about the inner surface of the bowl along the top edge. As shown in Figs. 4 and 6, the raised rim of the stepped portion allows for separation of the scooped ice cream from the inner surface of the bowl.

The Examiner has rejected Claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by the Maier Patent #6,457,238. It is the Examiner's contention that all elements of Claims 1-3, as originally filed, are taught by the Maier reference.

The Maier Patent is directed to an eating utensil. As shown in Figs. 1-4, the eating utensil includes a spoon shell 1 having two shell parts 2 and 3. In the closed state of the eating utensil, shown in Fig. 3, these two handle shafts 4 and 5 form a spoon handle 6 and the two shell parts 2 and 3 form a closed spoon shell 1.

With regard to the ring including a stepped portion, as originally claimed in originally-filed Claim 3, the Examiner has noted the embodiment shown in Figs. 10 and 11 of the Maier reference. It is respectfully noted that in Column 6, Lines 29-37 of the Maier reference, the Maier reference states that the embodiment of Figs. 10 and 11 is the same as the embodiment better shown and described with regard to Figs. 5 and 6, with the embodiment of Figs. 10 and 11 merely being directed to a different locking device.

In the embodiment shown in Figs. 5, 6, and 7, the Maier reference teaches an eating utensil provided with a cutting edge 48 and a respective cutting edge 48/1 which cooperate in a scissor-like manner in order to reduce food size. As best shown in Fig. 7 of the Maier reference, the edges 48 and 48/1 interlock to form a continuous inner surface for the scooping bowl.

In contradistinction, the system of the subject Patent Application includes a ring 12 having a stepped portion 121 formed thereon. As shown in Figs. 3 and 5 of the

subject Patent Application Drawings, the stepped portion forms a raised annular rim along the inner surface of the bowl 22. This raised annular rim is formed along the top edge of the bowl and, as best shown in Figs. 5 and 6, allows for the lifting and separation of the scooped ice cream ball from the inner surface of the bowl 22.

In the Maier reference, as shown in the Fig. 7 of the Maier Patent, the inner surface of the bowl remains half-oval shaped with no raised rim portion, which would result in the scooped ice cream or other food sticking to the interior surface of the bowl. In the system of the subject Patent Application, the raised rim portion formed by the stepped portion of the ring member allows for the lifting and separation of the scooped ice cream from the inner surface of the bowl.

Thus, the Maier reference does not provide for: "...wherein the ring includes a stepped portion in an inner periphery thereof, the ring of the first scoop member resting on top of the bowl of the second scoop member when the ice cream scoop is utilized for scooping, with an outer periphery of the stepped portion of the ring being in contact with an outer periphery of the bowl, said stepped portion forming a raised annular rim along an inner surface of said bowl and being positioned adjacent an upper edge of said bowl for separating scooped ice cream from said inner surface of said bowl...", as is clearly provided by newly-amended Independent Claim 1.

MR1939-81

Application Serial No. 10/627,704

Responsive to Office Action dated 16 December 2004

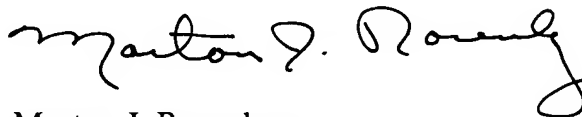
Thus, based upon newly-amended Independent Claim 1, it is not believed that the subject Application is anticipated by, or made obvious by, the Maier reference when Independent Claim 1 is carefully reviewed.

It is now believed that remaining Claim 2 also shows patentable distinction over the prior art cited by the Examiner for at least the same reasons as those previously discussed for Independent Claim 1.

The remaining references cited by the Examiner, but not used in the rejection, have been reviewed, but are believed to be further removed when patentable distinctions are taken into account than those cited by the Examiner in the rejection.

It is now believed that the subject Patent Application has been placed in condition for allowance, and such action is respectfully requested.

Respectfully submitted,



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